

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF TEXAS  
DALLAS DIVISION

KANSAS CITY PD,	)	
Plaintiff,	)	
vs.	)	No. 3:08-CV-0655-G (BH)
	)	ECF
CRAIG IVAN GILBERT,	)	Referred to U.S. Magistrate Judge
ID # 08019956,	)	
Defendant.	)	

**FINDINGS, CONCLUSIONS, AND RECOMMENDATION  
OF THE UNITED STATES MAGISTRATE JUDGE**

Pursuant to the provisions of 28 U.S.C. § 636(b), and an Order of the Court in implementation thereof, subject cause has previously been referred to the United States Magistrate Judge. The findings, conclusions, and recommendation of the Magistrate Judge are as follows:

**I. BACKGROUND**

On April 16, 2008, the Court received a “Notice of Removal” from Craig Gilbert (“Gilbert”). Because it was unclear whether Gilbert was trying to remove a criminal case from Kansas or sue Dallas authorities who arrested and/or incarcerated him pursuant to the Kansas warrant, the Court sent Gilbert a Magistrate Judge’s Questionnaire (“MJQ”) on April 30, 2008. It therein directed him to answer the questions contained in that document and return the answers within thirty days. It warned Gilbert, furthermore, that “[f]ailure to file answers to the Questions may result in the dismissal of this federal action for failure to prosecute.” To date, Gilbert has filed no response to the MJQ.

**II. INVOLUNTARY DISMISSAL**

Rule 41(b) of the Federal Rules of Civil Procedure permits a court to dismiss an action *sua sponte* for failure to prosecute or follow orders of the court. *McCullough v. Lynaugh*, 835 F.2d 1126, 1127 (5th Cir. 1988). This authority flows from a court’s inherent power to control its docket, prevent undue delays in the disposition of pending cases, and avoid congested court calendars. *Link v. Wabash R.R.*

Co., 370 U.S. 626, 629-31 (1962). Gilbert has failed to comply with the order of the Court that he file his answers within thirty days of the MJQ dated April 30, 2008. Accordingly, the Court should dismiss this federal action. Because Gilbert has not properly removed a state criminal action by his purported Notice of Removal, the dismissal of this civil action has no impact on any pending state criminal action against Gilbert, and there is no need to remand any criminal action to state court.

### III. RECOMMENDATION

For the foregoing reasons, it is recommended that the Court dismiss the instant federal action without prejudice pursuant to Fed. R. Civ. P. 41(b) for the failure of Gilbert to comply with an order of the Court.

SIGNED this 17th day of June, 2008.

  
IRMA CARRILLO RAMIREZ  
UNITED STATES MAGISTRATE JUDGE

### INSTRUCTIONS FOR SERVICE AND NOTICE OF RIGHT TO APPEAL/OBJECT

The United States District Clerk shall serve a copy of these findings, conclusions, and recommendation on all parties by mailing a copy to each of them. Pursuant to 28 U.S.C. § 636(b)(1), any party who desires to object to these findings, conclusions, and recommendation must file and serve written objections within ten days after being served with a copy. A party filing objections must specifically identify those findings, conclusions, or recommendation to which objections are being made. The District Court need not consider frivolous, conclusory or general objections. Failure to file written objections to the proposed findings, conclusions, and recommendation within ten days after being served with a copy shall bar the aggrieved party from appealing the factual findings and legal conclusions of the Magistrate Judge that are accepted by the District Court, except upon grounds of plain error. *Douglass v. United Servs. Auto Ass'n*, 79 F.3d 1415, 1428-29 (5th Cir. 1996) (*en banc*).

  
IRMA CARRILLO RAMIREZ  
UNITED STATES MAGISTRATE JUDGE